

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA

DOCKET NO. 2021-152-T - ORDER NO. 2022-25

FEBRUARY 10, 2022

IN RE:	Application of Greenville Area Movers, LLC)	ORDER DISMISSING
	for Class E (Household Goods) Certificate of)	APPLICATION
	Public Convenience and Necessity for)	
	Operation of Motor Vehicle Carrier)	

I. INTRODUCTION

This matter comes before the Public Service Commission of South Carolina (“Commission”) pursuant to Greenville Area Movers, LLC’s (“GAM,” “Applicant,” or “Company”) application and failure to comply with certain legal and procedural requirements regarding its application for a Class E Certificate of Public Convenience and Necessity (“PC&N”).

II. FACTS AND PROCEDURAL HISTORY

On April 29, 2021, the Company submitted its Application to the Commission for a Class E Household Goods Certificate to provide motor carrier services on a statewide basis (“Application”). GAM is a South Carolina limited liability company. The Company was organized on April 12, 2021, and it has a Certificate of Existence from the South Carolina Secretary of State’s Office dated April 28, 2021¹.

¹Despite being registered as a limited liability company with the S.C. Secretary of State’s Office, the Applicant indicated it was an “Individual Owner/Sole Proprietorship” and not a corporation on page 2 of its Application.

By letter dated May 6, 2021, the Clerk's Office of the Commission instructed GAM to publish, one time, the Notice of Filing ("Notice") "in newspapers of general circulation." The Notice provided information regarding the nature of the proceeding and advised any person that would like to participate as a party of record to file a Petition to Intervene on or before June 10, 2021. The Clerk's Office required GAM to publish the Notice on or before May 20, 2021 and to provide proof of publication no later than June 10, 2021.

On June 25, 2021, GAM notified the Commission it had not been able to publish the article and requested an extension. A Revised Notice was filed by the Clerk's Office, which allowed GAM additional time to meet its publication requirement. The next publication deadline was set for July 15, 2021, with proof of publication due on or before August 5, 2021. By the Revised Notice, the intervention deadline was set for August 5, 2021. The pre-hearing conference was rescheduled for September 13, 2021, and the hearing was rescheduled for September 28, 2021.

On July 1, 2021, the Company had the original Notice, instead of the Revised Notice, published in *The Post and Courier*. The original Notice required intervention by June 10, 2021. Thus, the Notice was improper, and the notice requirement was not met. Furthermore, the proof of publication was submitted after the deadline, on August 18, 2021.

On September 13, 2021, GAM failed to appear for its pre-hearing conference. Additionally, no pre-filed direct testimony or exhibits were filed by the September 20, 2021 deadline. Although GAM contacted the Commission about the missed pre-hearing conference, the hearing was cancelled and then held in abeyance pursuant to Amended Order No. 2021-127-H.

A Second Revised Notice of Filing required GAM to publish notice on or before October 8, 2021, and provide proof of publication by October 29, 2021. The new hearing date was moved from September 28 to December 1. On October 28, 2021, GAM requested another extension, stating the affidavit had not been published yet.

On October 29, 2021, a Third Revised Notice of Filing was filed by the Clerk's Office of the Commission, again modifying the various filing deadlines. The pre-hearing conference was set for January 24, 2022, and the hearing was set for February 1, 2022. Again, Commission Staff reminded GAM that it needed to be represented by an attorney due to its LLC status. In an email exchange between Commission Staff and the Applicant, dated November 1, 2021, Staff stated:

The application you submitted to the South Carolina Public Service Commission requests a Class E Certificate for a business entity, Greenville Area Movers, LLC...A business entity is required to have legal representation by an attorney authorized to practice law in South Carolina. You cannot represent the business entity, as such is the unauthorized practice of law. You must obtain legal counsel for Greenville Area Movers...Failure to obtain counsel may result in the dismissal of the application.

III. APPLICABLE LAW

As an initial matter, a limited liability company cannot legally represent itself. S.C. Code Ann. Regs. 103-805 requires a limited liability company to have appropriate representation under the law.

Except as otherwise provided in S.C. Code Ann. Regs. 103-805(E), any entity including, but not limited to, a corporation, partnership, *limited liability company*, or professional association, must be represented by an attorney admitted to practice law in South Carolina, or an attorney possessing a Limited Certificate of Admission pursuant to Rule 405, SCACR.

S.C. Code Ann. Regs. 103-805(B)(emphasis added). “No one shall be permitted to represent a party where such representation would constitute the unauthorized practice of law.” S.C. Code Ann. Regs. 103-805(A). Moreover, an attorney or person authorized to represent a party “shall file with the commission a notice of appearance when retained or authorized to represent a party after commencement of a case.” S.C. Code Ann. Regs. 103-805(D).

In regards to notice requirements, the Commission requires adherence to specific timelines. Public notice is required for a Certificate of PC&N, and it must be published in newspapers in the affected area in the form prescribed by the Commission. *See* S.C. Code Ann. Regs. 103–132. Additionally, “[a]ll publication requirements must be complied with and affidavits of publication must be returned to the commission’s offices prior to a hearing date being set.” *Id.* Each notice an Applicant receives states: “[f]ailure to comply with the above on or before the dates indicated may result in the DISMISSAL of your pleading.”

Finally, the Application must include “[t]he precise legal name of the applicant, which shall indicate whether the applicant is a partnership, corporation, etc.” S.C. Code Ann. Regs. 103-823(A)(1). “Without good cause shown, any application for a Certificate of PC&N...submitted but not processed in compliance with the commission’s instructions by the applicant within 90 days of receipt of the notice of filing, may be dismissed.” S.C. Code Ann. Regs. 103–139.

IV. DISCUSSION

To date, no attorney or person authorized to represent the Company has filed a notice of appearance in this matter. Not only was the Application filled out incorrectly, but

the Company, as an LLC, is not properly represented to pursue a Certificate of PC&N before the Commission.

The Clerk's Office granted the Company multiple requests for extensions and issued second and third revised notices. Notices from the Commission were sent to GAM on May 6, 2021, June 30, 2021, September 23, 2021, and October 29, 2021. Additionally, second and third revised pre-hearing conference and hearing dates were provided, as well as new publication deadlines and testimony submission deadlines.

Nonetheless, the Company failed to properly file its proof of publication and failed to appear for its pre-hearing conference. Based on the Company's failure to comply with the publication requirements and retain necessary counsel, the Commission dismissed the matter at its business meeting on January 13, 2022.

Although GAM has failed to comply with the necessary requirements to pursue a Certificate of PC&N at this time, the law provides the Applicant an opportunity to apply again, and we welcome any future applications from the Company.

V. FINDINGS OF FACT

After review of the Application and all the evidence in the record, the Commission makes the following findings of fact:

1. The Applicant, Greenville Area Movers, LLC, is a limited liability company.
2. The Applicant filed a request for a Class E (Household Goods) Certificate of Public Convenience and Necessity.
3. The Applicant was not represented by counsel and/or no notice of appearance was filed by counsel on behalf of the Applicant during the application process.

4. The Applicant failed to comply with the Commission's notice requirements for a Certificate of PC&N.

5. The Applicant failed to provide proper proof of publication to the Commission.

6. The Application of Greenville Area Movers, LLC is dismissed without prejudice.

7. If the Applicant wishes to obtain a Class E Certificate subsequent to this dismissal, it may file a new Application.

VI. CONCLUSIONS OF LAW

1. The Commission concludes the Applicant failed to comply with Regulations 103-823(A)(1) of the South Carolina Code of State Regulations.

2. The Commission concludes the Applicant failed to comply with Regulations 103-805(B) of the South Carolina Code of State Regulations.

3. The Commission concludes the Applicant failed to comply with Regulations 103-132 of the South Carolina Code of State Regulations.

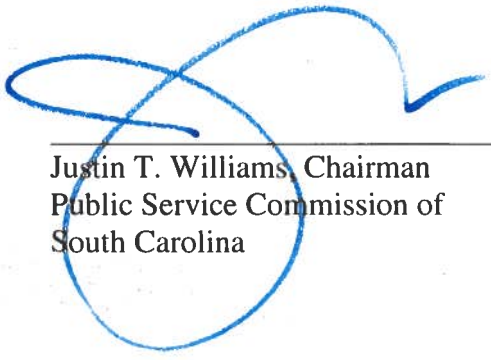
VII. ORDERING PROVISIONS

IT IS THEREFORE ORDERED:

1. The Application of Greenville Area Movers, LLC for approval of a Class E (Household Goods) Certificate of Public Convenience and Necessity is dismissed without prejudice.

2. This Order shall remain in full force and effect until further order of the Commission.

BY ORDER OF THE COMMISSION:



Justin T. Williams, Chairman
Public Service Commission of
South Carolina